

**MINUTES OF THE JOINT MEETING
MINNEHAHA COUNTY & SIOUX FALLS PLANNING COMMISSIONS
March 28, 2016**

A joint meeting of the County and City Planning Commissions was held on March 28, 2016 at 7:00 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Mike Cypher, Becky Randall, Doug Ode, Bill Even, Bonnie Duffy, Paul Kostboth, and Jeff Barth.

CITY PLANNING COMMISSION MEMBERS PRESENT: Steve Gaspar, Ken Dunlap, Sharon Chontos, Nicholas Sershen, and Kurt Johnson.

STAFF PRESENT:

Scott Anderson and Kevin Hoekman - County Planning
Dian DeKoeyer – City Planning

The County Planning Commission Chair was presided over by Mike Cypher. The City Planning Commission was chaired by Steve Gaspar.

CONSENT AGENDA

A motion was made to **approve** the consent agenda for the City by Commissioner Sershen and seconded by Commissioner Johnson. The motion passed unanimously. Same motion was made for the County by Commissioner Duffy and seconded by Commissioner Ode. The motion passed unanimously.

ITEM 1. Approval of Minutes – November 23, 2015

As Part of the Consent agenda, a motion was made for the City by Commissioner Sershen and seconded by Commissioner Pierson to **approve** the meeting minutes for November 23, 2015. The motion passed unanimously. Same motion was made for the County by Commissioner Even and seconded by Commissioner Randall to **approve** the meeting minutes for November 23, 2015. The motion passed unanimously.

ITEM 2. CONDITIONAL USE PERMIT #16-03 to exceed 1,200 square feet of total accessory building area – requesting 2,888 sq. ft. on the property legally described as Tract 1 Heffner’s Addition, SE1/4 SW1/4, Section 28-T101N-R48W.

Petitioner: Jason Kelling

Property Owner: same

Location: 3101 S. Riverview Ave. Approximately 1 mile east of Sioux Falls

Staff Report: David Heinold

This would allow 2,888 sq. ft. of total accessory building area.

General Information:

Legal Description – Tract 1 Haffner’s Addition, SE1/4 SW1/4, Section 28-T101N-R48W

Present Zoning – A-1 Agricultural District

Existing Land Use – Residential

Parcel Size – 5 Acres

Staff Report: David Heinold

Staff Analysis:

The petitioner is requesting to exceed 1,200 square feet of total accessory building area. The petitioner is requesting approval of Conditional Use Permit #16-03 to allow 2,888 square feet of total accessory building area. According to the joint revised City of Sioux Falls and Minnehaha County Zoning Ordinance, Section 15.07 (d) states:

(d) Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:

(1). In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1,200 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.

The petitioner is requesting to construct a 40’x60’ accessory building with two horse stalls. Several other properties in the area have large accessory buildings. One agricultural property to the southwest has over 10,000 square feet of accessory building. The property owner at 9404 E. 41st St. has a 3,840 sq. ft. accessory building. A neighboring property to the west was approved with a CUP in 2008 for 1,952 square feet of accessory building. Most recently, the property owner at 9300 E. 41st St. was approved with a CUP last November for 2,700 sq. ft. of total accessory building area that is located on a similar 5-acre parcel less than one-half mile west of the subject property. The proposed building size will be comparable to existing accessory buildings in the surrounding area.

The site plan indicates that the proposed accessory building would be placed just off the north side of the driveway near an existing shed and is currently gravel surfaced for outdoor storage. There are trees along a portion of the east property boundary surrounding the driveway, which will provide screening of the building from the right-of-way. The subject property is located in

the middle of a farm and pasture land in the southeast quarter-quarter within the section.

On March 10, 2016, staff met with the City of Sioux Falls planning department and discussed the conditional use permit request to exceed 1,200 square feet of total accessory building area. In communication with the City, they do not have any comments on the proposed building size.

On March 17, 2016, staff inspected the property and determined that the proposed accessory building area is comparable to other accessory building sizes in the surrounding area.

Conditional Use Permit Criteria:

1. The effect upon the use and enjoyment of other property in the immediate vicinity for the uses already permitted, and upon property values in the immediate vicinity.

The construction of the proposed accessory building should have little impact on surrounding properties. There are a few properties within a half-mile of the subject property that have building sizes relatively comparable to the petitioner's requested total accessory building area. It is unlikely that the proposed building size, 40'x60', will have a detrimental effect on property values in the immediate vicinity. The proposed building will be used for the property owner's personal storage. The area is primarily agricultural with five residential acreages within a quarter-mile of each other.

2. The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The accessory structure may only be used for residential purposes, no commercial or business activities are allowed. The proposed structure is compatible to the area that is composed primarily of large lot developments. Several of the similar-sized buildings in the area are located on nearby parcels. This area will face development pressure as the City of Sioux Falls expands towards the Big Sioux River. However, the current large lot development and hilly nature of the area will likely remain for the foreseeable future as the area is already heavily subdivided.

3. That utilities, access roads, drainage, and/or other necessary facilities are provided.

All needed infrastructure is in place, and the proposed accessory building will utilize the existing driveway.

4. That the off-street parking and loading requirements are met.

No off-street parking will be needed as a result of personal activities in this accessory building. No commercial or business parking will be allowed at any time. The structure will provide indoor storage for several items that are currently stored outside.

5. That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

No offensive nuisances shall be permitted at any time during use of the proposed accessory structure. The use of lighting should be directed downward on to the property in order to prevent light pollution off site.

6. Health, safety, general welfare of the public and the Comprehensive Plan.

The proposed accessory building should have little to no effect on the health, safety, and general welfare of the public as well as the Envision 2035 Comprehensive Plan. Staff foresees that the use of the accessory building for private use and storage will likely create few nuisances to neighboring properties.

Recommendation:

Staff finds that the requested total accessory building size is relatively comparable to the existing accessory building in the immediate vicinity that has already been approved as a part of the conditional use permit process. Staff recommends **approval** of Conditional Use Permit #16-03 with the following conditions:

- 1.) That the total accessory building square footage shall not exceed 2,888 square feet.
- 2.) That the accessory building shall not exceed 35 feet in height.
- 3.) That the building shall be an accessory use to the continued use of the property as a residential lot.
- 4.) That only personal residential or agricultural storage shall be allowed in the building and no commercial uses or commercial storage will be allowed at any time.
- 5.) That all outdoor lighting shall be of a full cutoff and fully-shielded design to prevent direct spillage of light beyond the property boundaries.
- 6.) That a building permit is required prior to construction of the accessory building.

ACTION

As Part of the Consent agenda, a motion was made for the City by Commissioner Sershen and seconded by Commissioner Pierson to **approve** Conditional use Permit #16-03. The motion passed unanimously. Same motion was made for the County by Commissioner Even and seconded by Commissioner Randall to **approve** Conditional Use Permit #16-03. The motion passed unanimously.

Conditional Use Permit #16-03 – Approved

REGULAR AGENDA

ITEM 3. CONDITIONAL USE PERMIT #16-13 to allow Retail Sales of Fireworks on the properties legally described as W14 Acres (Ex. H-1 & Ex. Rocky Ridge Addition & Ex. Pt. in City Limits) NE1/4 NW1/4 and N431' W1/2, NW1/4 (Ex. H-1 & Ex. Wittrock Trs. & Ex. W145' E345' N183' & Ex. Wittelm's 2nd Addn. & Ez. H-2); all in Section 22-T101N-R50W.

Petitioner: Andy Jorgensen

Property Owner: Daniel D. Aesoph & Richard Elmen, PTR

Location: 8101 W. 12th St. Westside of Sioux Falls

Staff Report: Kevin Hoekman

This would allow retail sales of fireworks.

General Information:

Legal Description – W14 Acres (Ex. H-1 & Ex. Rocky Ridge Addition & Ex. Pt. in City Limits) NE1/4 NW1/4 and N431' W1/2, NW1/4 (Ex. H-1 & Ex. Wittrock Trs. & Ex. W145' E345' N183' & Ex. Wittelm's 2nd Addn. & Ez. H-2); all in Section 22-T101N-R50W

Present Zoning – A1 – Agricultural

Existing Land Use – Vacant land and existing farm buildings

Parcel Size – 8.39 Acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject site is located on the south side of W. 12th Street approximately 0.2 miles west of S. Discovery Avenue and 0.2 miles east of S. Ellis Road. The City Limits of Sioux Falls border the two site properties on the north, east, and west sides. The property with the address of 8101 W. 12th Street includes the structure where the proposed fireworks sales would take place, while the vacant larger parcel will have part of the property used for parking and stacking spaces for customers.

The petitioner is requesting retail fireworks sales in the A-1 Agricultural district. Fireworks sales are allowed in the A-1 Agricultural district with a conditional use permit if the sales do not exceed nine (9) days, June 27th through July 5th. The approval of this permit would allow the petitioner to have a fireworks stand in subsequent years, as long as the conditions of the permit are met.

The petitioner has submitted a project narrative which describes some of the functional aspects of the proposed fireworks sales. A distinctive aspect of the project is primary sales will be directed online. This creates a site plan that uses a pick-up area and vehicle stacking along with parking. On-site sales will still be present with the business hours of operations from 8:00 am to midnight.

The petitioner has submitted a site plan that is accompanied with description within the project narrative. The plan is to convert an existing agricultural barn into the sales and warehouse for the operation. The building will have two exits, one on the south and one on the east side of the structure. The doors on the building are intended to be replaced for security and to prevent damage to the inventory. A driveway on the site plan indicates the flow of traffic for order pick-ups. As noted in the narrative, the building is long enough to stack four vehicles alongside to wait for orders. Since the driveway would wrap around the proposed parking lot, more vehicles could likely stack in the line. The petitioner wrote that the parking, which is located between the proposed fireworks sales building and an existing single family dwelling, will have space for 15-20 vehicles. It is likely this estimate is low, because of the size of the yard where parking is indicated to be placed. The petitioner plans on utilizing flags to promote the business. Approximately 12 flags are indicated to be placed along W 12th Street. In addition to the flags the petitioner the building is planned to be painted bright patriotic colors. The petitioner would also like to have an entrance sign and possibly signage on the building.

It is indicated in the narrative that the proposed fireworks sales building would receive several improvements before sales would take place. When staff inquired about the improvements, the petitioner's response is that most improvements would be for appearance, security and product protection. He added that a pickup window is possible in the future as well. The indicated improvements include new siding, paint, roof and electricity. Any structural changes, such as new windows, doors, or walls, will require a building permit form the Minnehaha County Planning Department. All the necessary inspections must also be made for structural improvements, electrical, and any possible plumbing.

County Planning staff reviewed the past conditional use permits for fireworks stands in the area. The most recent CUP application for a fireworks stand for the location on the east side of Chaser's Bar was denied in 2012. It was denied by a split vote at the Joint Planning Commission Meeting, and both sides of the Joint Commission and Council. The last two approved fireworks stands were located on the east and west sides of Chaser's Bar were approved in 2004 and 2001, and both permits have expired due to inactivity. There is a fireworks stand operating approximately ½ mile east of the site for this application. This fireworks stand at north of the Sertoma Avenue intersection, is operating with a conditional use permit that was approved in 1998.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.

The proposed use will create a busy retail business for a temporary time period. The area includes a mix of urban and rural land uses. The adjacent single family dwellings are owned by the landowners that signed the conditional use permit. A residential subdivision within Sioux Falls is located approximately 260 feet to the south of the site. The Number 10 fire station is located across 12th Street form the proposed use. The land adjacent to the Number 10 fire station

is currently vacant, in the city limits, and has the potential to develop in the near future. Much of the operations surrounding the fireworks stand will take place around the week before Independence Day.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The proposed land use is located on two parcels that are nearly surrounded by the City of Sioux Falls. As Sioux Falls continues to grow, more residences and businesses will encroach on the proposed property. The City of Sioux Falls does not allow the sale of fireworks within city limits. The business has the potential to become surrounded by city limits and hold out in order to maintain a location within the city but in the county jurisdiction. The Sioux Falls Planning Department has expressed their concern regarding future growth of the area.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

The site plan show access to the site from W 12th Street. The proposed access to the road is currently made of dirt and has a relatively narrow driveway. These issues can be mitigated by adding gravel or hard surfacing and by widening the driveway; however these types of improvements may be difficult for a temporary event.

No drainage plan has been submitted and the property appears very flat with a slight slope to the northeast. The site generally slopes to the north into the intermittent stream that has been channeled along the north property line. All necessary facilities and utilities will have to be obtained by the property owner/petitioner as needed.

4) That the off-street parking and loading requirements are met.

The proposed building would have a footprint of approximately 2,200 square feet (approximately 110ft x 21ft). The Zoning Ordinance requires one parking space for every 100 square feet for a "Recreation of Amusement Establishment" the provided 15 to 20 parking spaces which is not enough for this type of use. As discussed earlier, it is likely that the petitioner provides plans do not include the preface enough off street parking to meet this requirement.

The petitioner noted in email correspondence that fireworks deliveries to the site will use the east driveway that is used for 8101 W. 12th Street because that driveway has gravel surface and can better support delivery vehicles.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

The presence of a busy retail business has the potential to disturb residents of single family housing developments. The City of Sioux Falls Planning Department is concerned with lights, pollution, and noise. Many measures would have to be taken in order to reduce the negative effects of this type of establishments.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The site is located adjacent to an existing commercial outdoor storage and in close proximity to

residential uses. The potential nuisances may adversely affect the current residential land uses and future land uses. The Envision 2035 Comprehensive Plan has a goal to coordinate growth and land use planning among Minnehaha County, cities, townships, and other relative organizations. The City of Sioux Falls has expressed concerns regarding this proposed fireworks sales and current and future growth in the area.

Recommendation:

Minnehaha County planning staff recognizes the concerns of the City of Sioux Falls' Planning Department for this project in the joint jurisdiction. Based on City of Sioux Falls' concerns, Staff recommends **denial** of Conditional Use Permit #16-13.

PUBLIC COMMENT

Commissioner Sershen recused himself from this item.

Kevin Hoekman of county planning staff presented the staff report and recommendation.

Commissioner Even asked if there was a timeline for annexation of this area for future development. Diane DeKoeper of city planning staff responded that the property is in the five year plan for annexation.

Commissioner Cypher asked if there was a required setback for fireworks from a residential house. Kevin Hoekman responded that there are no specific setback from residences. Commissioner Cypher pointed out that one of the main concerns for the last fireworks stand to be denied was the concern for traffic at the intersection.

Commissioner Gaspar confirmed with staff that the residential dwellings to the south are located in the area where headlights will be shining directly on the dwellings. He also asked if the county has any parking lot requirements. Staff responded that this is a temporary use and no special requirements would be placed on the property. Commissioner Gaspar finished his questions with a questions regarding whether or not the fire marshal will approve of the structure for fireworks sales. Staff responded that that question would likely be a state law requirement and that they did not research the state laws pertaining to fireworks sales, and that would be a good question to ask the petitioner.

Andy Jorgensen, the petitioner, spoke in support of the proposal. He provided a background of himself and his operating experience with fireworks sales. He then explained the business model of online sales and how this location would be a fulfillment center for those sales were people pick up their order. This would lead to quick on and off the property for customers. Mr. Jorgensen then presented a prepared document that was sent to the Planning Commissioners on Monday. This included responses to concerns address in the staff report and during conversations with staff from both the county and city. He addressed the question of disturbing the neighbors by visiting with the property owners who live in the single family dwellings to the south. He explained that they were largely in support of the plan to sell fireworks. He considered

city growth and noted that he was happy with a sunset clause because the property owner wants to annex and build on the property anyway. He then addressed each consideration for a conditional use permit. Mr. Jorgensen then addressed concern over the building condition. He noted that the state only requires two exits, signage, and hour restrictions limited to midnight. He explained that he intends on working with non-profits for fundraising and discounts. He also noted that he plans on growing the local and state economy with his new business model.

Commissioner Ode asked if the building is even structurally sound. Mr. Jorgensen responded that structurally it is sound, but they will have to make repairs for the leaky roof, secure entrances, and repair and paint the siding.

Commissioner Chontos asked if other properties were considered. Mr. Jorgensen responded that he found land through a connection that was affordable, available, and outside city limits.

Commissioner Randall raised concern over lights in the windows of neighboring properties and asked the petitioner if he would consider limitations on hours of operation. Mr. Jorgensen responded that he would consider it if it meant approval, but it would put him at a disadvantage to other stands that can sell until midnight. Commissioner Randall noted that it may be possible to enter the site from the east driveway. Mr. Jorgensen responded that the east entrance would be possible and the site plan can be adjusted accordingly.

Commissioner Even confirmed with the applicant that the properties in question and neighboring properties are zoned A-1 agriculture. He then asked if further clean up would happen as a result of this operation. Mr. Jorgensen responded that he does plan on cleaning up the site as best as possible and necessary. This would include building improvements, and picking up some debris.

Commissioner Ode asked if the location had electricity and if plans were made for restrooms. Mr. Jorgensen responded that they plan on bringing in porta-potties; one of which can be handicap accessible and most likely near the storage sheds. He mentioned that the building had electricity once and that all he needs is an extension cord for lights and a computer for internet access.

Commissioner Gasper asked if a market study was done for the area. Mr. Jorgensen explained that most customers purchased fireworks on the 2nd, 3rd, and 4th. He provided examples from his store at the Tea Exit. Commissioner Gasper clarified in regards to online marketing. The response noted that nobody has done an operation such as this so there is no data to view on similar stores. Staff noted that the business will be open to the public too.

Commissioner Kostboth asked for specifics of what work will be done on the building. Mr. Jorgensen responded that they will have to plug holes in the roof, patch siding, patch ceiling, secure the doors, clean the structure, and paint. Commissioner Kostboth directed a question to staff whether there are any ordinances for minimum improvements. Staff responded that there are not but it would be within the Commission's ability to require changes as part of approval.

The floor was closed for discussion.

DISCUSSION

Commissioner Dunlap asked City Planning staff if anything was said to change the city stance for recommendation. Diane DeKoeyer of City Planning staff responded that the concerns were not fully addressed, because the property is still surrounded by city limits and the dwellings are very close to the site. Commissioner Cypher raised the point that a fireworks stand exists on the north side of town that is entirely surrounded by city limits. Diane DeKoeyer responded that the city would prefer that this project not become entirely surrounded in a few years. She noted that shooting off fireworks in city limits is illegal.

Commissioner Barth asked why the city has not annexed the property yet. Diane DeKoeyer responded that some property owners are more resilient to annexation than others despite a 10 year plan for annexations.

Commissioner Barth motioned for approval. Kevin Hoekman of County Planning staff provided a list of possible conditions in the event that the item may be approved. The list included:

- 1.) The property shall adhere to the submitted site plan and site plan narrative.
- 2.) No outside storage shall be allowed at any time.
- 3.) The retail sales of fireworks must abide by all applicable SD laws and regulations.
- 4.) The retail sales of fireworks may only be marketable for nine (9) days per calendar year.
- 5.) All outdoor lights in use for the building or to illuminate the parking area shall be directed away from single family dwellings.
- 6.) Building permits are required for all structural changes.
- 7.) Temporary signs for the business are allowed to be placed no earlier than June 13th and must be taken down by July 10th. One temporary freestanding sign is allowed not to exceed 32 square feet. One temporary wall sign is allowed per building face not to exceed one square foot per linear foot of building frontage.
- 8.) Flags that are used for advertising shall be located on the subject properties, not block the view of traffic entering or exiting the property, and shall only be placed during the regular nine (9) day selling period of June 27th through July 5th.
- 9.) No parking or stacking of vehicles shall be allowed in the right-of-way at any time.
- 10.) The hours of operation for the public will be between 8:00 am and 10:00 pm. Set up and tear down activities outside of the nine day sales period must take place between 8:00 am and 8:00 pm.
- 11.) No storage of fireworks is allowed from August 1st to June 10th.
- 12.) The existing structure shall be inspected for structural integrity by the Minnehaha County Building Inspector before June 1, 2016.
- 13.) The driveway as indicated on the site plan shall be configured to have a minimum of 24 feet wide driving area. Gravel must be placed on the driveway and meet the minimum improvement and maintenance standards in article 16.04 of the ordinance from the shoulder of the road to 15 feet onto the property.

- 14.) The operation will be allowed to operate under the conditions of this permit until August 1, 2021. The business owner will be required to obtain another conditional use permit before this date if they wish to continue operating at this location.
- 15.) That the Planning & Zoning Department reserves the right to enter and inspect the fireworks stand at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Commissioner Gaspar raised the question of a lot of “ifs” and noted that approval should at a minimum take into concern the driveway and entering from the east.

The motion for approval died for the lack of a second.

ACTION

A motion was made for the County by Commissioner Even to **deny** Conditional Use Permit #16-13. Commissioner Ode seconded the motion. The motion passed with 5 ayes and 1 nay. Commissioner Barth voted nay. The same motion for **denial** was made for the City by Commissioner Dunlap. Commissioner Chontos seconded the motion. The motion passed unanimously with Commissioner Sershen abstained from voting.

Conditional Use Permit #16-13 – denied

ITEM 4. CONDITIONAL USE PERMIT #16-14 to allow a Rubble Dump for the Storage, Processing, and Transport of Wood Products on the property legally described as Vac. ROW Lying Adj. and NW1/4 (Ex. CM Tract 1 Addn.), Section 16-T101N-R50W.

Petitioner: Margaret E. Mueller DBA Mueller Pallets, LLC

Property Owner: Billy Pollema (Concrete Materials)

Location: One half mile west of Ellis Rd. on Sands St. Westside of Sioux Falls

Staff Report: Kevin Hoekman

This would allow a rubble dump for the storage, processing, and transport of wood products.

General Information:

Legal Description – Vac ROW Lying Adjacent & NW ¼ (Ex C M Tract 1 Addn) 16-101-50 Wayne Township

Present Zoning – A1 – Agriculture

Existing Land Use – Gravel Quarry

Parcel Size – 154.19 acres

Staff Report: Kevin Hoekman

Staff Analysis:

The subject site is located approximately ½ mile north and ½ mile west of the 12th Street and Ellis Road intersection. The closest residential development is the Cherry Lake Addition to Sioux Falls, approximately ¼ mile south of the proposed site. The subject property is currently being a non-operating gravel quarry. Both active and inactive quarries are common land uses in the area.

The petitioner is requesting to have a location to store and process wood products to eventually be used as fuel for the production of ethanol in off-site locations or be created into recycled wood products. Wood products fit within Minnehaha County's definition for rubble. No other rubble materials will be accepted at the site. Mueller Pallets has an existing site based on the wood recycling concept which is located south of the Tea exit and in Lincoln County.

The petitioner has submitted a short narrative describing the operation. The narrative has been copied and pasted below.

This site would be open to the general public to drop off wood for wood recycling. Hours would be Monday through Friday 6:00 am to 6:00 pm and Saturday 6:00 am to 12:00 pm.

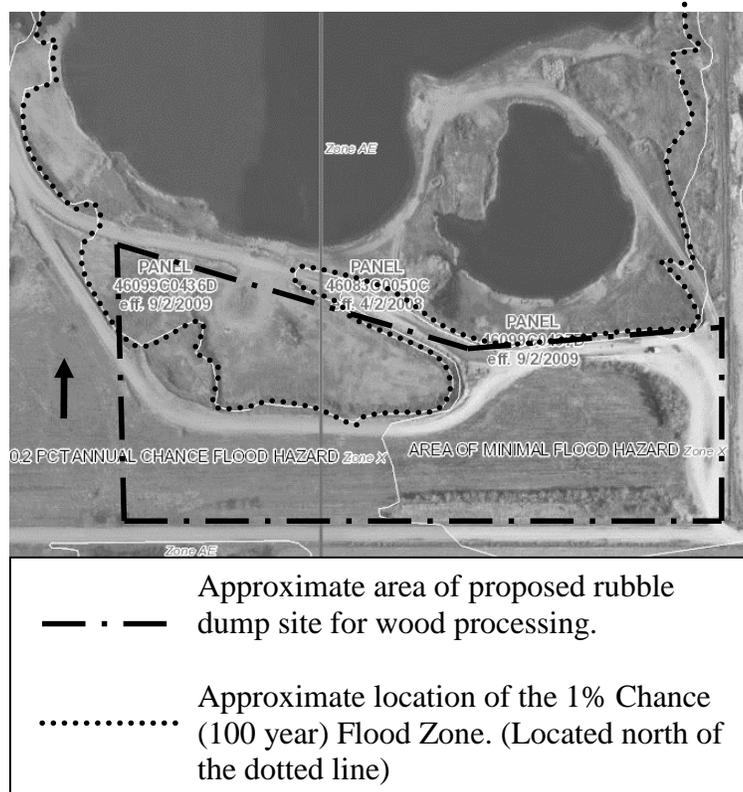
At this site Mueller Pallets LLC would accept and store wood (trees, tree branches, pallets, dimensional lumber, etc.) until enough quantity is built up for processing. A loader would be at site to keep piling the wood as it comes in.

At the time of processing, equipment will be brought-to the site to grind the wood and haul it away. Equipment used for the processing would be a portable wood grinder, excavator, loaders and semi-trucks and trailers.

The petitioner has submitted a site plan that includes site details. The operation will take place in the southeast quarter of the near quarter section sized parcel. The plan includes a guard shack, porta-potty, equipment storage area, a four foot by eight foot sign, and employee parking. The wood materials will be separated into two piles. The “wet wood” pile is for tree trimmings and the “dry wood” pile is for pallets and lumber. Staff visited the site on March 3rd and found that the proposed site had several aspects that are beneficial to this type of land use. The driveway is in good condition despite the road needing some attention. The guard shack would be placed on the high portion of the site along the entrance road while the storage of materials and equipment will be stored in the low quarried area of the site. Even though much of the site is low and the spring melt only recently took place, the ground surface of the site seemed firm like a gravel road.

Staff contacted the State Department of Environment and Natural Resources regarding the permit request. Jim Wendte of the DENR responded that their office was worked with Mueller Pallets before, and that they will not require a solid waste permit for processing clean, untreated wood. Jim Wendte added that they will nonetheless monitor the site to ensure the facility operates as described in the permit.

One obstacle of the development of the site is that part of the site is mapped with regulatory floodplain. The figure on the right shows the traced approximate area of the proposed site and the 1% annual chance (100 year) Flood Zone. More area has been excavated since the creation of the last flood plain map and therefore it is possible that the flood plain may expand when further mapping of the area uses newer data. Until then, the storage of wood piles should be placed outside of the flood plain on the site as proposed in the provided site plan. If the regulatory flood plain expands, this permit should be



reviewed to determine if the proposed land use should remain on the site. Staff notified the applicant of the floodplain and a new site map was drawn to remove the wood piles from the floodplain.

Conditional Use Permit Criteria:

1) The effect upon the use and enjoyment of other property in the surrounding area for the uses already permitted, and upon property values within the surrounding area.

The primary land use surrounding the proposed site are active and inactive gravel quarries and agricultural uses. The proposed land use is compatible with these types of developments; however, the Cherry Creek Residential development is located approximately ¼ mile south of the site and one single family dwelling located on Sands Street approximately 700 feet to the east of the proposed site. Planning Staff for the City of Sioux Falls has expressed concern that the proposed use will further impact the noise, odor, traffic, and air (due to prevailing north winds) in the area due to grinders, loaders, semi-trucks and trailers. The city also noted that if this use was located away from existing residential land uses it would be more compatible. If the Planning Commissions decide to approve this permit, they should consider conditions to help mitigate these concerns.

2) The effect upon the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

The primary land use of gravel quarries will likely continue for years to come. As quarry production sites close there is potential for other development to take advantage of manmade water features for development similarly to the Cherry Creek development in Sioux Falls. It is possible that this rubble site for wood processing will continue when other land uses have developed. The same effects that may cause problems with current residences have the potential to affect future development of the area. County planning staff spoke with the petitioner regarding the longevity of the location for the proposed use. The response was that this location is only intended to be semi-permanent, and that they would not be opposed to a sunset clause in the conditions if that is required to use this location.

3) That utilities, access roads, drainage, and/or other necessary facilities are provided.

The facility will not require most utilities for regular operation. It will be the petitioner's responsibility to extend any desired utilities if they become necessary for operation. The property is accessed off of Sands Street and has a gravel driveway that is in fair condition. Sands Street itself is used by the area gravel quarries and has several spots in need of maintenance. The Wayne Township supervisor has been contacted regarding the request, and no response has been received from the township.

4) That the off-street parking and loading requirements are met.

The site is large enough to accommodate any parking and loading. Staff parking is indicated to be located on the ridge and some equipment storage will be located on the north side of the designated site.

5) That measures are taken to control offensive odor, fumes, dust, noise, vibration, and lighting (inclusive of lighted signs), so that none of these will constitute a nuisance.

As noted earlier, the operation has the potential to further impact the noise, odor, traffic, and air (due to prevailing north winds) in the area due to grinders, loaders, semi-trucks and trailers. These affects have the greatest potential to affect the Cherry Creek residential development in the City of Sioux Falls.

6) Health, safety, general welfare of the public and the Comprehensive Plan.

The nuisances this land use may create may also affect the health and general welfare of the public. Added traffic on Sands Street may also further deteriorate the road conditions.

The proposed project would be beneficial by creating a close location for area residents to drop waste wood products and to have them recycled into a useful fuel for renewable energy. The Envision 2035 Comprehensive Plan has a goal to coordinate growth and land use planning among Minnehaha County, cities, townships, and other relative organizations. The City of Sioux Falls has expressed concerns regarding this proposed wood processing site and current and future growth in the area.

Recommendation:

Minnehaha County planning staff recognizes the concerns of the City of Sioux Falls' Planning Department for this project in the joint jurisdiction. Based on the City of Sioux Falls' concerns, staff recommends **denial** of Conditional Use Permit #16-14.

PUBLIC COMMENT

Kevin Hoekman of county planning staff presented the staff report and recommendation. Commissioner Kostboth asked staff if there was an indication as to potential increase in traffic created by the proposed use. Staff responded that the petitioner did not include any traffic study and they would be the best to ask regarding traffic.

Commissioner Barth commented that traffic would go past the one house on Sands Street and that nobody claims to have jurisdiction of the road for maintenance. Currently the road is maintained by the gravel companies that use it.

Diane DeKoeyer spoke on the concerns of the city. She noted that noise and dust are concerns because of the nearby residential properties. She added that they anticipate growth in the area in the future.

Commissioner Even asked when the active gravel pits will expire or will continue. County staff responded that they are grandfathered in or have permits to do so. It's likely that sand and gravel permits will continue for the foreseeable future.

Commissioner Kostboth asked if there is anything we could do as far as conditions for a haul road agreement. County staff responded that there isn't anyone to have a haul road agreement

with and since there is many gravel trucks up and down the road already, it may be difficult for the petitioner to maintain the road.

Mike Marlow, attorney for the petitioner, spoke as the representative of the petitioner. He stated that he found three concerns that led to the denial recommendation: odor, air quality, and noise. He added that ruck traffic in this area is already extensive due to gravel quarries. This site is intended to be a secondary operation to their existing south location and this site will hold approximately 25 percent of the current location. At 25 percent, the operation would expect grinding operations at the site approximately 2 times a year for 7 days each time. Mr. Marlow then described the operation process of people dropping off materials, the materials get piled up, and then a grinder is placed on the site to grind materials into a mulch for sale at Poet for fuel for making ethanol. Mr. Marlow then showed the commission photos of the site and surrounding active mining in the area. He explained the location and orientation of each photo. Some of the photos highlighted a wood grinding facility located north of Family Park. Mr. Marlow pointed out that even if the site is operating illegally, any potential issues of a wood grinding facility would have been raised when this one started operations about one year ago. He continued that the city used this CUP proposed site for processing the wood from the storm a couple years ago. He added the only smells that come from the grinding process is good cedar type smells that most people do not find offensive. In addition the major residential development is to the south of the sight and spring and summer time winds prevail form the south when the operation s will do most of its work. He concluded with a note that the city has a grinding facility located at the landfill and he presumed that no nearby residents complained about that or the city would have known about it for their report. He then showed a short video clip of a grinding operation.

Commissioner Even asked if there was a sunset clause on the current site in Lincoln County. The response was no use needed for it. Commissioner Even asked if any complaints were at the Lincoln county site. The answer was that he was not aware of any. Commissioner Even continued with asking if the lease in Lincoln County would be at risk and how many times grinding each year. Mr. Marlow responded that their intent is to keep both sites operating and they grind about 8 times a year.

Commissioner Gaspar clarified with Mr. Marlow that only about two times a years at seven days a time is expected to grind at the proposed facility.

Commissioner Ode asked if the materials attract rodents. The response noted that rodents have not been an issue, but if they became a problem measures would be taken to control it. Mr. Marlow added that deer have been more of an issue with the fresh wood that attracts them.

Commissioner Barth asked staff if they prepared a list of conditions for possible approval. Kevin Hoekman of County Planning staff placed the list on the overhead and read the conditions. The recommended conditions are as follows:

- 1.) The property shall adhere to the submitted site plan and site plan narrative.
- 2.) The process of grinding wood shall take place during the hours of 8:00 am through

7:00 pm on Monday through Saturday.

- 3.) Any structures including the guard shack must be located on the high portion of the ridge and not within the former gravel pit.
- 4.) A building permit must be obtained for the guard shack.
- 5.) Only clean, untreated, unpainted, and unstained wood shall be accepted for processing. No other materials shall be accepted.
- 6.) No storage of wood products will be allowed in the flood plain. Any other development in the floodplain will require a floodplain development permit.
- 7.) The operation will be allowed to operate under the conditions of this permit until April 30, 2021. The business owner will be required to obtain another conditional use permit before this date if they wish to continue operating at this location.
- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Mike Marlow stated that they agreed with all proposed conditions.

Commissioner Gasper asked if a person will be present in the guard shack in the case that unapproved materials try to get submitted. Mr. Marlow noted that debris drop offs are a concern for them and that even with the guard shack they have to remove approximately one roll off trailer of debris every year.

Commissioner Randall asked if lighting was a concern and the response was that no lights would be present.

Commissioner Even motioned to approve with the staff recommended conditions. Commissioner Kostboth seconded the motion.

After the motion Commissioner Barth discussed that drop off garbage is a problem with the street and the gravel pits too.

Commissioner Even noted that because of the existing operations that will stay for the foreseeable future the use is compatible in the area.

The vote was called for and the motion passed unanimously.

Commissioner Dunlap of the Sioux Falls Planning Commission motioned to approve the conditional use permit with conditions. The motion was seconded by Commissioner Sershen.

After the motion Commissioner Dunlap discussed that this application has a “feel-good” feeling to it. He added that he wished there could be some clarification as to the other operation that is grinding wood and if it is legal or not.

Commissioner Sershen added that he struggled to approve this with the staff recommendation for denial, but noted that the gravel pits in the area have a much large impact that this will do.

Commissioner Johnson stated that he lives in the development to the south of this site. He added that the rock quarries and manufacturing at Ellis was already there and that he is not convinced adding further activity if best.

ACTION

A motion was made for the County by Commissioner Even to **approve** Conditional Use Permit #16-14 with staff recommended conditions. Commissioner Kostboth seconded the motion. The motion passed unanimously.

The same motion for **approval** was made for the City by Commissioner Dunlap. Commissioner Sershen seconded the motion. The motion passed with 3 ayes and 2 nays. Commissioners Dunlap and Johnson voted against the motion.

Conditional Use Permit #16-14 – Approved with the following conditions

- 1.) The property shall adhere to the submitted site plan and site plan narrative.
- 2.) The process of grinding wood shall take place during the hours of 8:00 am through 7:00 pm on Monday through Saturday.
- 3.) Any structures including the guard shack must be located on the high portion of the ridge and not within the former gravel pit.
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- 8.) That the Planning & Zoning Department reserves the right to enter and inspect the site at any time, after proper notice to the owner, to ensure that the property is in full compliance with the conditional use permit conditions of approval and the Minnehaha County Zoning Ordinance.

Old Business

None.

New Business

None.

Adjourn

A motion was made for the City by Commissioner Dunlap and seconded by Commissioner Chontos to **adjourn**. The motion passed unanimously. Same motion was made for the County by Commissioner Ode and seconded by Commissioner Even to **adjourn**. The motion passed unanimously.